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June 11, 2013

Luly E. Massaro, Clerk
Rhode Island Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02888

Subject: Docket No. 4311, Renewable Energy Resources (RES) Certification Application for Generation: Steuben Landfill; Docket No. 4408, Renewable Energy Resources (RES) Certification Application for Generation: Howard Wind Farm; and Docket No. 4419, Renewable Energy Resources (RES) Certification Application for Generation: Ontario LFGE.

Madame Clerk:

In the above-captioned dockets, applicants seeking certification of eligibility of renewable energy resources from the adjacent control area of New York are requesting waivers of the statutorily-imposed requirement that external generators deliver energy under “a unit-specific bilateral contract.”¹ RENEW submits these comments to state its position on the waiver requests. RENEW requests inclusion on the service list in each docket.

RENEW is a non-profit association uniting the renewable energy industry and environmental interest groups whose mission involves coordinating the ideas and resources of its members with the goal of increasing environmentally sustainable energy generation in New England from the region’s abundant renewable energy resources.²

¹ G.L. 1956 § 39-26-5(c).

² RENEW's membership is comprised of American Wind Energy Association, Anbaric Transmission, BNE Energy Inc., Conservation Law Foundation, Deepwater Wind, EDP Renewables North America LLC, First Wind Energy, LLC, Iberdrola Renewables, Inc., OffshoreMW, Patriot Renewables, Union of Concerned Scientists and Vestas American Wind Technology, Inc. The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW.

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As a legal question, RENEW believes the Commission does not have the authority to grant such a waiver, regardless of the wisdom of such a request, since the underlying statute does not provide for waivers.

Should the Commission determine it has the authority to grant a waiver, RENEW urges the Commission to consider the importance of having all the statutory requirements implemented as legislated to preserve confidence in the market for renewable energy credits (“RECs”) that are relied upon by developers of renewable energy projects and their investors. Unexpected changes in market rules, like the granting of the waivers, might give developers an impression of regulatory instability which in turn increases their perception of risk in building a project. From a markets perspective, expanding the eligibility of renewable energy resources by allowing an exception to the bilateral contracting requirement might disrupt the supply-demand balance of RECs in the region causing developers to be concerned about the future value of RECs that are essential to the financial support of a new project. Ultimately, a developer’s assessment of regulatory and market risks plays a critical role in determining whether it will build a project.

As a policy matter, the requirements for eligibility of renewable energy resources are based on the legislature’s stated objectives to create incentives for the development of new renewable generation and ensure the state reaps some of the environmental and economic development benefits.³ A deliverability standard such as the bilateral contracting requirement, while not the only known approach, can contribute to accomplishing these legislative goals. At this time, RENEW’s members, not having fully evaluated the policy, do not take a position as to whether these legislative objectives can be met without the bilateral contracting requirement and whether alternatives should be considered to amend the statute.

In the interest of maintaining the regulatory certainty in REC markets necessary for the development of renewable energy resources in Rhode Island and across New England, RENEW submits that the waiver requests should be denied and that the General Assembly is the appropriate forum for consideration of the necessity of the bilateral contracting requirement.

Sincerely,

A handwritten signature in blue ink that reads "Francis E. Pullaro". The signature is written in a cursive style.

Francis Pullaro
Executive Director

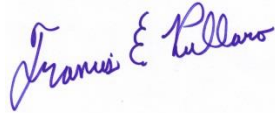
cc: service list

³ G.L. 1956 §§ 39-26-1, 39-26-3.

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Certificate of Service

I hereby certify that the foregoing comments were served on the service lists for these dockets on the 11th day of June, 2013.



Francis Pullaro
Executive Director